

REMARKS

Claims 1-17 are pending.

Claims 1, 2, 5, 6, 9, 10, 13, 14, and 17 were rejected under 35 U.S.C. 102(b) as being by Nguyen et al., U.S. Patent No. 5,138,647 ("Nguyen"). In order for there to be anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicants respectfully submit that the claimed invention is not taught, suggested, or implied by Nguyen.

As described in the Specification, a radiation therapy device according to an embodiment of the present invention includes a linear accelerator for providing radiation to a body; and an electronic portal imaging device operably coupled to the linear accelerator. The electronic portal imaging device is adapted for use in commissioning the radiation therapy device and adapted for use in dosimetry applications during therapy. The electronic portal imaging device can be moved to various positions above, below, and through the patient plane during commissioning. Typically, during treatment, the device is positioned below the patient plane. Claims 1, 5, 9, 13, and 17 recite "wherein said electronic portal imaging device is adjustable through a patient plane."

In contrast, while Nguyen describes a portal imaging device, the device does not appear adjustable in the patient plane. In particular, FIG. 1 of Nguyen illustrates a horizontal axis 9, which is also a rotational axis for the gantry 3. Beams are emitted from the treatment head along axis 11, which intersects axis 9 at isocenter 13. The patient is positioned at the isocenter 13. (See, e.g., Col. 3, lines 1-3). In operation, the image converter 17 is maintained in a horizontal position below the axis 9 and hence below the patient plane. While the image converter 17, along with the rest of the detector head 21, are retractable in the horizontal direction (i.e., toward and away from gantry 3), and while the image converter 17 can pivot to a vertical position for storage (see, e.g., FIG. 2), the image converter 17 does not appear adjustable in the vertical

direction, i.e., to or through the patient plane 9. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Claims 3, 4, 7, 8, 11, 12, 15, and 16 were rejected under 35 U.S.C. 103 as being unpatentable over Nguyen in view of Barnea, U.S. Patent No. 5,233,990 ("Barnea"). Applicant respectfully submits that the claimed invention is not taught, suggested, or implied by Nguyen, or Barnea, either singly or in combination. Barnea is relied on for allegedly teaching positioning the imaging device between the source and the patient. However, like Nguyen, Barnea does not appear to be adjustable at or to a patient plane during commissioning, as generally recited in the claims at issue. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims.

Serial No.: 10/053,369

Attorney Docket No.: 01P19662US

For all of the above reasons, Applicants respectfully submit that the application is in condition for allowance, which allowance is earnestly solicited.

Respectfully requested,

SIEMENS CORPORATION

By:


Jenny G. Ko

Registration No.: 44,190

Attorney for Applicant(s)

Tel.: 650-694-5180

Fax: 650-968-4517

Date: 12/18/03

SIEMENS CORPORATION
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830
ATTENTION: Elsa Keller, Legal Department
Telephone: (732) 321-3026